IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.463 OF 2007

M/s. Sudarshan Trading Company Limited ..Appellant.
Vs.
Ramchandra Karamchand Thakwani ..Respondents.

Mr.A.R.S.Baxi, adv. for the Appellant.

CORAM : J.H.BHATIA, J.
DATE : NOVEMBER 2, 2007.

P.C.:

1. Heard the learned counsel for the Appellant. Perused the judgments of the Courts below.

2. The appellant is original plaintiff. According to the plaintiff, it is a company registered under the Companies Act and was running business of chit funds. The defendant/respondent no.1 had become member of the chit funds and had in auction of particular chit group, he was successful bidder and an amount of Rs.7475/- was paid to him after deducting chit commission and other charges. Amount was to be repaid in monthly instalments of Rs.200/-. Some dues were paid but the defendant no.1 had failed to pay the balance amount of Rs.4,800/-. Therefore, he executed promissory note dated 31st August, 1972 for payment of Rs.4,800/-. The defendant nos.2 and 3 were sureties. As in spite of promissory note, the defendants failed to make the

payment, the plaintiff/appellant filed Regular Civil Suit No.1691 of 1973 in the Court of Joint Civil Judge, Junior Division, Pune. Pending the suit, the Maharashtra Debt Relief Act, 1975 was enacted and the debt of certain debtors came to be abolished under Section 6 of the said Act. Definition of debt under Section 2(f) of the Act is as follows:

> "2(f) "debtor" means a marginal farmer, rural artisan, or rural labourer whose total income from all sources did not exceed two thousand and four hundred rupees during the year immediately before the 1st day of August, 1975 and a worker whose total income from all sources did not exceed, if living in an urban area six thousand rupees during the year immediately before the said date, and if living elsewhere four thousand and eight hundred rupees during that year;"

In view of this provision, the defendant no.1 made an application contending that his monthly income was less than Rs.500/- per month and he is exempted from the payment of debt in view of the provision of section 4 of the said Act. After hearing the evidence, the learned trial Court found that as per the evidence of the defendants, his annual income was Rs.2,000/- only and as his income was less than Rs.500/- per month, he was debtor under the definition of the Act. The learned trial Court noted that it was loan transaction as the suit was based on the promissory note to repay the loan amount of Rs.4,800/- with interest. In view

of this, suit came to be dismissed. The plaintiff preferred Civil Appeal NO.226 of 1985 before the District Judge, Pune. That appeal was also dismissed by the impugned judgment dated 20th December, 1991. It appears that it was argued before the District Court that under the Karnataka Debt Relief Act, the dues under the chit fund are not covered and exemption is not given. However, the learned IVth Additional District Judge, who heard the appeal noted that provisions of Maharashtra Debt Relief Act are different from Karnataka Debt Relief Act and no such exemption is available under the Maharashtra Debt Relief Act. He also relied upon the various authorities of this Court including in **Navjeevan Chit Fund Pvt. Ltd. v. Rupchand Bhatia and others** 1979 Bom. C.R. 222. Exemptions under Section 19 of the Maharashtra Debt Relief Act are given but no exemption is given to the dues of any chit fund companies.

3. In the present case there is concurrent findings of both the Court below that the case is covered under the Maharashtra Debt Relief Act and the learned counsel for the appellant could not point out any fault in the same. She could not point out any substantial question of law involved in the matter.

4. In the result, appeal stands dismissed.

[J.H.BHATIA, J.]